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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,166	05/05/2005	Carlos Daniel Silva	101727-2(4)	9954

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NORRIS, MCLAUGHLIN & MARCUS, P.A.  
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EXAMINER

NASSER, ROBERT L

ART UNIT PAPER NUMBER

3736

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/534,166

Applicant(s)

SILVA, CARLOS DANIEL

Examiner

Robert L. Nasser Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: The word plethysmograph is spelled pletismograph. In claim 1, line 10, the word to is spelled so. Clarification is required.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 1-9 are rejected in that it is not entirely clear what an output plug or input socket is. Does applicant mean output ports and input ports? Claim 4 is also rejected in that it is unclear what an "instant acceleration transmission module" is and what it does.

Claims 1-9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had

possession of the claimed invention. Claim 1 recites that the accelerometer has a plurality of output plugs. This is not shown in the drawings or discussed in the specification. Since it was in an original claim, it may be added to the specification, so long as no new matter is introduced.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Feld et al 6472988 in view of Varis 6254551. Feld et al shows a system including a motion detector 44, connected to a micro controller 30, where the controller has a plurality of outputs connected to alarms 5 and 10. It does not state that the motion sensor is an accelerometer. However, Varis teaches that an accelerometer is a known motion sensor. Hence, it would have been obvious to modify Feld to use an accelerometer as a motion sensor, as it is merely the substitution of one known equivalent sensor for another. In addition, the exact number of connections between the sensor and the controller would have been a mere matter of design choice for one skilled in the art. Claims 2 and 3 are is rejected in that there is also a transmission means 60 in Feld, which transmits the signals to a remote computer shown in figure 4. Claim 4 is rejected in that the accelerometer of the combination measures instant acceleration. Claims 5 and 7 are rejected in that applicant has not stated that the exact form of transmission module solves a stated problem or is for a particular purpose. As such, the exact form

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of the circuit would have been a mere matter of design choice for one skilled in the art. Claims 6 is rejected in that the examiner takes official notice that RF and infrared transmission means are known to be interchangeable. Hence, it would have been obvious to modify the combination to use an IR transmitter, as it is merely the substitution of one known equivalent transmission means for another. Claim 8 is rejected in that the alarm is a loud speaker, or buzzer. Claim 9 is rejected in that applicant has not stated that the exact form of the power source solves a stated problem or is for a particular purpose. As such, the exact form of the circuit would have been a mere matter of design choice for one skilled in the art.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cassel et al and Parker et al show similar motion sensors using accelerometers.

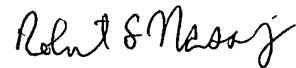
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert L. Nasser Jr. whose telephone number is 571 272-4731. The examiner can normally be reached on 9:30 - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenberg can be reached on 571 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RLN  
March 13, 2006



ROBERT L. NASSER  
PRIMARY EXAMINER